

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MS NATACHA NOBILE,

Plaintiff,

-against-

FBI ADMINISTRATION OF JOE BIDEN,

Defendant.

24-CV-1107 (LTS)

ORDER OF DISMISSAL

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff brings this action *pro se*. Named as Defendant is “FBI Administration of Joe Biden.” By order dated February 20, 2024, the Court granted Plaintiff’s request to proceed *in forma pauperis* (“IFP”), that is, without prepayment of fees.

The Court dismisses the complaint for the reasons set forth below.

STANDARD OF REVIEW

The Court must dismiss an IFP complaint, or portion thereof, that is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B); *see Livingston v. Adirondack Beverage Co.*, 141 F.3d 434, 437 (2d Cir. 1998). The Court must also dismiss a complaint when the Court lacks subject matter jurisdiction. *See Fed. R. Civ. P. 12(h)(3)*. While the law mandates dismissal on any of these grounds, the Court is obliged to construe *pro se* pleadings liberally, *Harris v. Mills*, 572 F.3d 66, 72 (2d Cir. 2009), and interpret them to raise the “strongest [claims] that they suggest,” *Triestman v. Fed. Bureau of Prisons*, 470 F.3d 471, 474 (2d Cir. 2006) (internal quotation marks and citations omitted) (emphasis in original).

BACKGROUND

Plaintiff bring her claims using the court's general complaint form. She checks the box on the form to invoke the court's federal question jurisdiction. In response to the question asking which of her federal constitutional or federal statutory rights have been violated, Plaintiff writes, "I received so many death threats and Joe Biden told them to erase msgs. To delete all msgs about him and Paris Hilton's death threats. Airline fraud. They didn't want to show any reports they hung up the phones when I called." (ECF 1, at 2.)¹

Plaintiff alleges the following as her statement of claim,

This FBI Administration of Joe Biden has heard of many complaints from me about death threats, from Paris Hilton and Hilton Hotels, about Scott Kirby @ United Airlines. These people did not want to write reports or send confirmations for 4 years! About death threats for no good reason. I am innocent of these people trying to do "Dispositions", trying to "kill" b/s Paris Hilton is a HIV [illegible], who is mentally insane. Psychotic with bipolar plus mania. She has been stalking and bribing people not to work or answer me.

(*Id.* at 5-6.)

Plaintiff seeks billions of dollars and injunctive relief.

DISCUSSION

A. Plaintiff's claims are frivolous

Under the IFP statute, a court must dismiss an action if it determines that the action is frivolous. 28 U.S.C. §1915(e)(2)(B)(i). "[A] finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible. . ." *Denton v. Hernandez*, 504 U.S. 25, 33 (1992). A complaint is "'factually frivolous' if the sufficiently well-pleaded facts are 'clearly baseless' – that is, if they are 'fanciful,' 'fantastic,' or 'delusional.'"

¹ Plaintiff writes using irregular capitalization. For readability, the Court uses standard capitalization when quoting from the complaint. All other spelling, grammar, and punctuation are as in the original unless otherwise indicated.

Gallop v. Cheney, 642 F.3d 364, 368 (2d Cir. 2011) (quoting *Denton*, 504 U.S. at 32-33) (finding as frivolous and baseless allegations that set forth a fantastical alternative history of the September 11, 2001 terrorist attacks); *see also Neitzke v. Williams*, 490 U.S. 319, 325 (1989) (stating a claim is frivolous when it “lacks an arguable basis either in law or in fact”); *Livingston*, 141 F.3d at 437 (“[A]n action is ‘frivolous’ when either: (1) the factual contentions are clearly baseless . . . ; or (2) the claim is based on an indisputably meritless legal theory.” (internal quotation marks and citation omitted)). Moreover, a court has “no obligation to entertain pure speculation and conjecture.” *Gallop*, 642 F.3d at 368.

To the extent that the Court can understand Plaintiff’s complaint, Plaintiff’s claims are premised on her belief that President Joe Biden and the Federal Bureau of Investigation (“FBI”) are covering up or “erasing” messages about death threats Plaintiff has received from Paris Hilton and, possibly, an employee of United Airlines. However, a “[p]laintiff’s beliefs – however strongly [s]he may hold them – are not facts.” *Morren v. New York Univ.*, No. 20-CV-10802 (JPO) (OTW), 2022 WL 1666918, at *18 (S.D.N.Y. Apr. 29, 2022) (citation omitted), *report & recommendation adopted*, 2022 WL 1665013 (S.D.N.Y. May 25, 2022). Plaintiff provides no factual basis for her assertions that Paris Hilton has been making death threats to her, or that Joe Biden or the FBI have been deleting messages or declining to “write reports” or “send confirmation” with respect to such threats. *See Lefkowitz v. John Wiley & Sons, Inc.*, No. 13-CV-6414 (KPF), 2014 WL 2619815, at *10 (S.D.N.Y. June 2, 2014) (complaint must set forth facts showing a basis for information and belief).

The Court finds that Plaintiff does not provide any plausible factual support for her claims and, consequently, that they rise to the level of the irrational. *See Livingston*, 141 F.3d at 437. Plaintiff has provided the court with allegations that she may believe to be true but that are

implausible. She has pleaded no factual predicate in support of her assertions; therefore, her allegations amount to conclusory claims and suspicions, and must be dismissed as frivolous. *See Kraft v. City of New York*, 823 F. App'x 62, 64 (2d Cir. 2020) (summary order) (holding that “the district court did not err in *sua sponte* dismissing the complaint as frivolous,” based on the plaintiff’s allegations that he had “been the subject of 24-hour, multi-jurisdictional surveillance by federal ‘fusion centers’ and the New York State Intelligence Center, which put a ‘digital marker’ on him in order to collect his personal data and harass him”); *Khalil v. United States*, Nos. 17-CV-2652, 17-CV-5458, 2018 WL 443343, at *4 (E.D.N.Y. Jan. 12, 2018) (dismissing complaint where “[p]laintiff allege[d] a broad conspiracy involving surveillance of and interference with his life by the United States and various government actors” because his allegations were “irrational and wholly incredible” (footnote omitted)).

District courts generally grant a *pro se* plaintiff an opportunity to amend a complaint to cure its defects but leave to amend is not required where it would be futile. *See Hill v. Curcione*, 657 F.3d 116, 123-24 (2d Cir. 2011); *Salahuddin v. Cuomo*, 861 F.2d 40, 42 (2d Cir. 1988). Because it appears that the defects in Plaintiff’s complaint cannot be cured with an amendment, the Court declines to grant Plaintiff leave to amend and dismisses the complaint as frivolous. *See* § 1915(e)(2)(B)(i).

B. Plaintiff’s litigation history and warning

As a result of Plaintiff’s history of frivolous litigation in this court, by order dated February 21, 2024, the Court barred Plaintiff from filing any new civil action in this court IFP without first receiving permission from the court to file. *See Nobile v. Windsor*, ECF 1:23-CV-10997, 10 (S.D.N.Y. Feb. 21, 2024); *see also Nobile*, ECF 1:23-CV-10997, 4 (discussing Plaintiff’s history of frivolous actions). Because Plaintiff filed this action on February 12, 2024, before the bar order was entered, it does not apply to this action. The Court warns Plaintiff that

continued submission of frivolous documents may result in the imposition of additional sanctions, including monetary penalties. *See* 28 U.S.C. § 1651.

CONCLUSION

Plaintiff's complaint is dismissed as frivolous under 28 U.S.C. § 1915(e)(2)(B)(i).

The Court denies Plaintiff's application for the court to request *pro bono* counsel as moot.

(ECF 4.)

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *See* *Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Court directs the Clerk of Court to enter judgment in this action.

SO ORDERED.

Dated: April 15, 2024
New York, New York

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
Chief United States District Judge